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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MARCELO EDUARDO PRIMA et al.,	:	
	:	
Plaintiffs,	:	
	:	04 Civ. 1077 (TPG)
- against -	:	
	:	<u>OPINION</u>
THE REPUBLIC OF ARGENTINA,	:	
	:	
Defendant.	:	
-----X		

Plaintiffs are the beneficial owners of certain bond indebtedness issued by defendant The Republic of Argentina. The Republic defaulted on such indebtedness in December 2001 during a profound fiscal crisis. Plaintiffs are suing to recover amounts due to them as a result of the default and have moved for summary judgment. Plaintiffs also move to strike the Republic's discovery requests.

The motions are granted.

FACTS

The bond indebtedness at issue is governed by one of four agreements: (1) a Fiscal Agency Agreement dated October 19, 1994 (the "1994 FAA"), (2) a Fiscal Agency Agreement dated December 10, 1993 (the "1993 FAA"), (3) a Floating Rate and Bond Exchange Agreement dated December 6, 1992 (the "FRB Agreement"), and (4) an Indenture dated July 8, 1998 (the "1998 Indenture"). The 1994 FAA is the same agreement that governed the bond

indebtedness on which this court granted summary judgment to the plaintiffs in Lightwater Corporation Ltd. v. Republic of Argentina, No. 02 Civ. 3804, 2003 WL 1878420 (S.D.N.Y. Apr. 14, 2003). Section 22 of the 1994 FAA, Section 20 of the 1993 FAA, Section 6.07 of the FRB Agreement and Section 113(c) of the Indenture state that the Republic waives sovereign immunity and consents to jurisdiction in any state or federal court in the borough of Manhattan in the City of New York. All four agreements provide that the Republic's obligations on the bonds are unconditional and that failure to make any payment of principal or interest for 30 days after the applicable payment date constitutes an event of default. A declaration by the Republic of a moratorium on the payment of principal or interest on its public external indebtedness is an event of default as well. Paragraph 12 of the 1994 FAA provides for acceleration of principal if there is a failure to pay interest or a moratorium. If either of these events occurs,

each holder of Securities and such Series may by such notice in writing declare the principal amount of Securities of such Series held by it to be due and payable immediately

The 1993 FAA contains similar language.

The FRB Agreement and the 1998 Indenture both permit acceleration of principal only by holders of at least 25% in aggregate of the outstanding principal amount of the bonds under each agreement.

On December 24, 2001 the Republic declared a moratorium on payments of principal and interest on the external debt of the Republic. The court refers to its previous opinions for a description of the circumstances of these defaults. Lightwater, 2003 WL 1878420, at *2; Applestein v. Republic of Argentina, No. 02 Civ. 1773, 2003 WL 1990206, at *1 (S.D.N.Y. Apr. 29, 2003). On February 3 and February 4, 2004, plaintiffs sent notices to Bankers Trust Company, the Fiscal Agent of The Republic of Argentina, declaring the principal amounts of the debt securities governed by the 1994 FAA and 1993 FAA held by each plaintiff to be immediately due and payable.

The bonds that are the subject of this action are listed hereafter. Also listed are the amounts of the beneficial interests owned by plaintiff.¹

The following tables contain the necessary identifying information regarding plaintiff's beneficial interests in bonds.

¹ The court notes the distinction between bonds and beneficial interests. In some previous opinions, the court has simply referred to the plaintiffs as owners of "bonds," when in fact plaintiffs are technically owners of "beneficial interests in bonds." The Republic actually issues "a bond" to a depository. The depository, in some form, issues "participations" to brokers, who sell "beneficial interests" to purchasers. These beneficial interests are identified by reference to the underlying bond (CUSIP or ISIN number or both; date of issuance and maturity; rate of interest) and the principal amount of the beneficial interest. This distinction is discussed more fully in Million Air Corp. v. Republic of Argentina, No. 04 Civ. 1048, 2005 U.S. Dist. LEXIS 23904 (S.D.N.Y. Oct. 17, 2005).

Table 1.

<u>Plaintiff Bond Holder or Beneficial Owner:</u>	Guillermo Almanza and Felicitas C. Von Gromann
<u>Face Value:</u>	U.S. \$ 190,000.00
<u>CUSIP No., ISIN No., BB No.:</u>	CUSIP No. 040114GF1; ISIN No. US04114GF14
<u>Date Of Issuance:</u>	December 19, 2001.
<u>Date Of Maturity:</u>	December 19, 2008.
<u>Interest Rate/Payable:</u>	7 %
<u>Date Of Purchase:</u>	Between December 10 and December 14, 2001.
<u>Acceleration:</u>	Notice sent February 4, 2004.
<u>Contract Documents:</u> (FAA; FRB; Indenture; Offering Prospectus; Certificates, etc.)	FAA dated October 19, 1994.
<u>Evidence of Ownership Proffered:</u> (Account Statements; Letters; Notarized Statements, etc.)	- Account statement from Citibank dated April 13, 2004.

Table 2.

<u>Plaintiff Bond Holder or Beneficial Owner:</u>	Compagnie Francaise D'Investissements S.A.
<u>Face Value:</u>	U.S. \$ 1,403,000.00
<u>CUSIP No., ISIN No., BB No.:</u>	CUSIP No. 040114BE9; ISIN No. US040114BE93
<u>Date Of Issuance:</u>	April 7, 1999.
<u>Date Of Maturity:</u>	April 7, 2009.
<u>Interest Rate/Payable:</u>	11.75 %
<u>Date Of Purchase:</u>	Between January 9 and June 30, 2001.
<u>Acceleration:</u>	Notice sent February 4, 2004.
<u>Contract Documents:</u> (FAA; Indenture; Offering Prospectus; Certificates, etc.)	FAA dated October 19, 1994.
<u>Evidence of Ownership Proffered:</u> (Account Statements; Letters; Notarized Statements, etc.)	- Account summary from Banc of America Securities LLC dated April 30, 2004.

Table 3.

<u>Plaintiff Bond Holder or Beneficial Owner:</u>	Compagnie Francaise D'Investissements S.A.
<u>Face Value:</u>	U.S. \$ 50,000.00
<u>CUSIP No., ISIN No., BB No.:</u>	CUSIP No. 040114AR1; ISIN No. US040114AR16
<u>Date Of Issuance:</u>	January 30, 1997.
<u>Date Of Maturity:</u>	January 30, 2017.
<u>Interest Rate/Payable:</u>	11.375 %
<u>Date Of Purchase:</u>	Between January 9 and June 30, 2001.
<u>Acceleration:</u>	Notice sent February 4, 2004.
<u>Contract Documents:</u> (FAA; Indenture; Offering Prospectus; Certificates, etc.)	FAA dated October 19, 1994.
<u>Evidence of Ownership Proffered:</u> (Account Statements; Letters; Notarized Statements, etc.)	- Account summary from Banc of America Securities LLC dated April 30, 2004.

Table 4.

<u>Plaintiff Bond Holder or Beneficial Owner:</u>	Ricardo Sanchez Caballero, Elisa Sanchez Caballero, and Susana Molina Gowland
<u>Face Value:</u>	U.S. \$ 216,233.00
<u>CUSIP No., ISIN No., BB No.:</u>	CUSIP No. 040114GF1; ISIN No. US040114GF14
<u>Date Of Issuance:</u>	December 19, 2001.
<u>Date Of Maturity:</u>	December 19, 2008.
<u>Interest Rate/Payable:</u>	7 %
<u>Date Of Purchase:</u>	Between October 31, 2000 and June 22, 2001.
<u>Acceleration:</u>	Notice sent February 4, 2004.
<u>Contract Documents:</u> (FAA; Indenture; Offering Prospectus; Certificates, etc.)	FAA dated October 19, 1994.
<u>Evidence of Ownership Proffered:</u> (Account Statements; Letters; Notarized Statements, etc.)	- Account statements from Smith Barney - Citigroup dated March 28 and April 30, 2004.

Table 5.

<u>Plaintiff Bond Holder or Beneficial Owner:</u>	Ricardo Sanchez Caballero, Elisa Sanchez Caballero, and Susana Molina Gowland
<u>Face Value:</u>	U.S. \$ 1,836,853.00
<u>CUSIP No., ISIN No., BB No.:</u>	CUSIP No. 040114GG9; ISIN No. US040114GG96
<u>Date Of Issuance:</u>	June 19, 2001.
<u>Date Of Maturity:</u>	June 19, 2018.
<u>Interest Rate/Payable:</u>	12.25 %
<u>Date Of Purchase:</u>	Between October 31, 2000 and June 22, 2001.
<u>Acceleration:</u>	Notice sent February 4, 2004.
<u>Contract Documents:</u> (FAA; Indenture; Offering Prospectus; Certificates, etc.)	FAA dated October 19, 1994.
<u>Evidence of Ownership Proffered:</u> (Account Statements; Letters; Notarized Statements, etc.)	- Account statements from Smith Barney - Citigroup dated March 28 and April 30, 2004.

Table 6.

<u>Plaintiff Bond Holder or Beneficial Owner:</u>	Horacio Alberto M. Sanchez Caballero, Ricardo Sanchez Caballero, and Elisa Sanchez Caballero
<u>Face Value:</u>	U.S. \$ 130,000.00
<u>CUSIP No., ISIN No., BB No.:</u>	CUSIP No. 040114AR1; ISIN No. US040114AR16
<u>Date Of Issuance:</u>	January 30, 1997.
<u>Date Of Maturity:</u>	January 30, 2017.
<u>Interest Rate/Payable:</u>	11.375 %
<u>Date Of Purchase:</u>	On or about September 30, 2003.
<u>Acceleration:</u>	Notice sent February 4, 2004.
<u>Contract Documents:</u> (FAA; Indenture; Offering Prospectus; Certificates, etc.)	FAA dated October 19, 1994.
<u>Evidence of Ownership Proffered:</u> (Account Statements; Letters; Notarized Statements, etc.)	- Certificate from Caja de Valores dated May 21, 2004.

Table 7.

<u>Plaintiff Bond Holder or Beneficial Owner:</u>	Horacio Alberto M. Sanchez Caballero, Ricardo Sanchez Caballero, and Elisa Sanchez Caballero
<u>Face Value:</u>	U.S. \$ 13,962,491.00
<u>CUSIP No., ISIN No., BB No.:</u>	CUSIP No. 040114GG9; ISIN No. US040114GG96
<u>Date Of Issuance:</u>	June 19, 2001.
<u>Date Of Maturity:</u>	June 19, 2018.
<u>Interest Rate/Payable:</u>	12.25 %
<u>Date Of Purchase:</u>	On or about June 22, December 11, and December 13, 2001 and January 8, May 22, May 24, and June 12, 2002.
<u>Acceleration:</u>	Notice sent February 4, 2004.
<u>Contract Documents:</u> (FAA; Indenture; Offering Prospectus; Certificates, etc.)	FAA dated October 19, 1994.
<u>Evidence of Ownership Proffered:</u> (Account Statements; Letters; Notarized Statements, etc.)	- Account statement from Goldman Sachs & Co. dated April 30, 2004.

Table 8.

<u>Plaintiff Bond Holder or Beneficial Owner:</u>	Horacio Alberto M. Sanchez Caballero, Ricardo Sanchez Caballero, and Elisa Sanchez Caballero
<u>Face Value:</u>	U.S. \$ 8,625,000.00
<u>CUSIP No., ISIN No., BB No.:</u>	CUSIP No. 040114GG9; ISIN No. US040114GG96
<u>Date Of Issuance:</u>	June 19, 2001.
<u>Date Of Maturity:</u>	June 19, 2018.
<u>Interest Rate/Payable:</u>	12.25 %
<u>Date Of Purchase:</u>	On or about December 18, 2001 and June 26, June 28, October 8, and October 21, 2002 and April 16, 2003.
<u>Acceleration:</u>	Notice sent February 4, 2004.
<u>Contract Documents:</u> (FAA; Indenture; Offering Prospectus; Certificates, etc.)	FAA dated October 19, 1994.
<u>Evidence of Ownership Proffered:</u> (Account Statements; Letters; Notarized Statements, etc.)	- Account statement from Lehman Brothers dated April 30, 2004.

Table 9.

<u>Plaintiff Bond Holder or Beneficial Owner:</u>	Horacio Alberto M. Sanchez Caballero, Ricardo Sanchez Caballero, and Elisa Sanchez Caballero
<u>Face Value:</u>	U.S. \$ 2,547,000.00
<u>CUSIP No., ISIN No., BB No.:</u>	CUSIP No. 040114GG9; ISIN No. US040114GG96
<u>Date Of Issuance:</u>	June 19, 2001.
<u>Date Of Maturity:</u>	June 19, 2018.
<u>Interest Rate/Payable:</u>	12.25 %
<u>Date Of Purchase:</u>	On or about December 1, 2003.
<u>Acceleration:</u>	Notice sent February 4, 2004.
<u>Contract Documents:</u> (FAA; Indenture; Offering Prospectus; Certificates, etc.)	FAA dated October 19, 1994.
<u>Evidence of Ownership Proffered:</u> (Account Statements; Letters; Notarized Statements, etc.)	- Account statement from UBS dated April 30, 2004.

Table 10.

<u>Plaintiff Bond Holder or Beneficial Owner:</u>	Horacio Alberto M. Sanchez Caballero, Ricardo Sanchez Caballero, and Elisa Sanchez Caballero
<u>Face Value:</u>	U.S. \$ 3,290,850.00
<u>CUSIP No., ISIN No., BB No.:</u>	CUSIP No. 040114GG9; ISIN No. US040114GG96
<u>Date Of Issuance:</u>	June 19, 2001.
<u>Date Of Maturity:</u>	June 19, 2018.
<u>Interest Rate/Payable:</u>	12.25 %
<u>Date Of Purchase:</u>	On or about August 1, September 24, October 1, October 2, October 3, October 6, October 7, October 8, October 9, October 10, and October 15, 2003.
<u>Acceleration:</u>	Notice sent February 4, 2004.
<u>Contract Documents:</u> (FAA; Indenture; Offering Prospectus; Certificates, etc.)	FAA dated October 19, 1994.
<u>Evidence of Ownership Proffered:</u> (Account Statements; Letters; Notarized Statements, etc.)	- Certificate from Caja de Valores dated April 30, 2004.

Table 11.

<u>Plaintiff Bond Holder or Beneficial Owner:</u>	Omar Adrian Cayre and Maria Beatriz Neveu
<u>Face Value:</u>	U.S. \$ 130,000.00
<u>CUSIP No., ISIN No., BB No.:</u>	ISIN No. US11942XAA37
<u>Date Of Issuance:</u>	None given.
<u>Date Of Maturity:</u>	March 15, 2002.
<u>Interest Rate/Payable:</u>	12.5 %
<u>Date Of Purchase:</u>	On or about August 9, 2000.
<u>Acceleration:</u>	None given.
<u>Contract Documents:</u> (FAA; Indenture; Offering Prospectus; Certificates, etc.)	Indenture dated July 8, 1998.
<u>Evidence of Ownership Proffered:</u> (Account Statements; Letters; Notarized Statements, etc.)	- Account statement from Merrill Lynch dated March 2004.

Table 12.

<u>Plaintiff Bond Holder or Beneficial Owner:</u>	Orfelio Cayre, Maria E. De Leon, and Omar Adrian Cayre.
<u>Face Value:</u>	U.S. \$ 94,000.00
<u>CUSIP No., ISIN No., BB No.:</u>	ISIN No. US11942XAA37
<u>Date Of Issuance:</u>	None given.
<u>Date Of Maturity:</u>	March 15, 2002.
<u>Interest Rate/Payable:</u>	12.5 %
<u>Date Of Purchase:</u>	On or about August 9, 2000.
<u>Acceleration:</u>	None given.
<u>Contract Documents:</u> (FAA; Indenture; Offering Prospectus; Certificates, etc.)	Indenture dated July 8, 1998.
<u>Evidence of Ownership Proffered:</u> (Account Statements; Letters; Notarized Statements, etc.)	- Account statement from Merrill Lynch dated March 2004.

Table 13.

<u>Plaintiff Bond Holder or Beneficial Owner:</u>	Guillermo Carlos F. Centeno
<u>Face Value:</u>	U.S. \$ 25,000.00
<u>CUSIP No., ISIN No., BB No.:</u>	CUSIP No. 040114AH3; ISIN No. US040114AH34
<u>Date Of Issuance:</u>	December 20, 1993.
<u>Date Of Maturity:</u>	December 20, 2003.
<u>Interest Rate/Payable:</u>	8.375 %
<u>Date Of Purchase:</u>	On or about August 27, 1998.
<u>Acceleration:</u>	Notice sent on February 3, 2004.
<u>Contract Documents:</u> (FAA; Indenture; Offering Prospectus; Certificates, etc.)	FAA dated December 10, 1993.
<u>Evidence of Ownership Proffered:</u> (Account Statements; Letters; Notarized Statements, etc.)	- Letter from Deutsche Bank dated May 21, 2004.

Table 14.

<u>Plaintiff Bond Holder or Beneficial Owner:</u>	Dolly Esther Cubasso
<u>Face Value:</u>	U.S. \$ 39,000.00
<u>CUSIP No., ISIN No., BB No.:</u>	CUSIP No. 040114AR1; ISIN No. US040114AR16
<u>Date Of Issuance:</u>	January 30, 1997.
<u>Date Of Maturity:</u>	January 30, 2017.
<u>Interest Rate/Payable:</u>	11.375 %
<u>Date Of Purchase:</u>	Between June 20, 2000 and November 9, 2001.
<u>Acceleration:</u>	Notice sent on February 4, 2004.
<u>Contract Documents:</u> (FAA; Indenture; Offering Prospectus; Certificates, etc.)	FAA dated October 19, 1994.
<u>Evidence of Ownership Proffered:</u> (Account Statements; Letters; Notarized Statements, etc.)	- Account statement from Caja de Valores dated March 31, 2004.

Table 15.

<u>Plaintiff Bond Holder or Beneficial Owner:</u>	Guido Debiasi
<u>Face Value:</u>	U.S. \$ 123,534.00
<u>CUSIP No., ISIN No., BB No.:</u>	CUSIP No. 040114GF1; ISIN No. US040114GF14
<u>Date Of Issuance:</u>	December 19, 2001.
<u>Date Of Maturity:</u>	December 19, 2008.
<u>Interest Rate/Payable:</u>	7 %
<u>Date Of Purchase:</u>	On or about June 19, 2001.
<u>Acceleration:</u>	Notice sent on February 4, 2004.
<u>Contract Documents:</u> (FAA; Indenture; Offering Prospectus; Certificates, etc.)	FAA dated October 19, 1994.
<u>Evidence of Ownership Proffered:</u> (Account Statements; Letters; Notarized Statements, etc.)	- Account statement from Caja de Valores dated March 31, 2004.

Table 16.

<u>Plaintiff Bond Holder or Beneficial Owner:</u>	Francisco Eduardo De La Merced and Isabel Evangelina Bavassi
<u>Face Value:</u>	U.S. \$ 37,000.00
<u>CUSIP No., ISIN No., BB No.:</u>	CUSIP No. 040114BE9; ISIN No. US040114BE93
<u>Date Of Issuance:</u>	April 7, 1999.
<u>Date Of Maturity:</u>	April 7, 2009.
<u>Interest Rate/Payable:</u>	11.75 %
<u>Date Of Purchase:</u>	Between June 2002 and September 2002.
<u>Acceleration:</u>	Notice sent February 4, 2004.
<u>Contract Documents:</u> (FAA; Indenture; Offering Prospectus; Certificates, etc.)	FAA dated October 19, 1994.
<u>Evidence of Ownership Proffered:</u> (Account Statements; Letters; Notarized Statements, etc.)	- Certificate from Caja de Valores dated May 20, 2004.

Table 17.

<u>Plaintiff Bond Holder or Beneficial Owner:</u>	Francisco Eduardo De La Merced and Isabel Evangelina Bavassi
<u>Face Value:</u>	U.S. \$ 25,000.00
<u>CUSIP No., ISIN No., BB No.:</u>	CUSIP No. 040114AR1; ISIN No. US040114AR16
<u>Date Of Issuance:</u>	January 30, 1997.
<u>Date Of Maturity:</u>	January 30, 2017.
<u>Interest Rate/Payable:</u>	11.375 %
<u>Date Of Purchase:</u>	Between June 2002 and September 2002.
<u>Acceleration:</u>	Notice sent February 4, 2004.
<u>Contract Documents:</u> (FAA; Indenture; Offering Prospectus; Certificates, etc.)	FAA dated October 19, 1994.
<u>Evidence of Ownership Proffered:</u> (Account Statements; Letters; Notarized Statements, etc.)	- Certificate from Caja de Valores dated May 20, 2004.